

The Honorable Michelle L. Peterson

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

O'DONNELL/SALVATORI, INC., an Illinois
corporation,

Plaintiff/Counterclaim
Defendant,

v.

MICROSOFT CORPORATION, a Washington
corporation,

Defendant/Counterclaim
Plaintiff.

NO. 2:20-cv-00882-MLP

**STIPULATED MOTION TO SEAL
UNREDACTED BRIEFS AT DKT. 140,
DKT. 149, AND DKT. 151, AND
UNREDACTED EXHIBITS AT DKT.
148-05, DKT. 150-01, DKT. 150-02, DKT.
152-03, DKT. 150-08, DKT. 150-09, DKT.
150-14, DKT. 152-05, DKT. 152-09, DKT.
152-13**

AND ~~[PROPOSED]~~ ORDER

**NOTE ON MOTION CALENDAR:
FEBRUARY 25, 2022**

Plaintiff O'Donnell/Salvatori, Inc. ("ODS") and Defendant Microsoft Corporation
("Microsoft") respectfully request this Court to seal:

1. Excerpts of ODS's Motion for Summary Judgment filed at Dkt. 140;
2. Excerpts of ODS's Response to Microsoft's Motion to Exclude Expert Testimony
of Cedar Boschan filed at Dkt. 149;

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3. Excerpts of ODS's Response to Microsoft's Motion for Summary Judgment filed at Dkt. 151;
4. Excerpts of Paul Lipson deposition filed at Dkt. 148-05, Dkt. 150-14, and Dkt. 152-09;
5. Excerpts of Chris Hull deposition filed at Dkt. 150-01 and Dkt. 152-05;
6. Document produced bearing Bates number MSFT_00012998 filed at Dkt. 150-08 and Dkt. 152-02;
7. Document produced bearing Bates number MSFT_00012847 filed at Dkt. 150-09 and Dkt. 152-03; and
8. Excerpts of ODS's Responses to Microsoft's First Set of Discovery Requests filed at Dkt. 152-13.

A motion to seal must include "a specific statement of the applicable legal standard and the reasons for keeping a document under seal, with evidentiary support from declarations where necessary." LCR 5(g)(3)(B). When documents are "more than tangentially related to the merits of the case," there must be a compelling reason to seal them. *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1102 (9th Cir. 2016). Here, the "compelling reasons" standard applies because the information sought to be sealed either reflects contractual language from the parties' agreement already under seal by the Court (#1-#5 and #8) or contains highly confidential communications about Halo music licensing and distributor partners (#6 and #7 above).

The parties have carefully tailored this proposed sealing to cover only portions of the above documents that contain this confidential information. Therefore, the parties only request sealing deposition testimony at 70:2-4, 70:15-16, 73:14-25, 77:1-4, 99:8-12, and 99:15-18 in #4; deposition testimony at 81:22 and 82:2 in #5; and quotes of the contractual language in #1-

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1 #3 and #8. The proposed sealing is the least restrictive means available to protect Microsoft's
2 rights, while also recognizing the interest in open records. The public has minimal interest in
3 these confidential documents. In contrast, these documents and communications are
4 commercially sensitive to Microsoft. Accordingly, compelling reasons support sealing the
5 unredacted copy of these documents. And these compelling reasons override the public's
6 minimal interest in disclosure.

7 For these reasons, the parties request the Court to seal the materials identified above
8 and allow ODS to publicly file redacted copies of those materials by no later than seven days
9 after entry of the Court's order. Aside from the items identified above as #1-#8, the parties do
10 not request sealing and have no objection to the unsealing of any additional documents ODS
11 filed under seal at Dkts. 147-152.

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13 DATED this 25th day of February, 2022.

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s/ Mark Lawrence Lorbiecki

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ORDER

It is hereby ORDERED that the Stipulated Motion to Seal is GRANTED. The Clerk of the Court is directed to seal or maintain under seal the documents filed at Dkt. 140, Dkt. 149, Dkt. 151, Dkt. 148-05, Dkt. 150-01, Dkt. 150-02, Dkt. 152-03, Dkt. 150-08, Dkt. 150-09, Dkt. 150-14, Dkt. 152-05, Dkt. 152-09, Dkt. 152-13. Within seven days of entry of this Order, ODS shall publicly file redacted copies of items #1-#5 and #8 identified in the Stipulated Motion.

DATED this 28th day of February, 2022.



MICHELLE L. PETERSON
United States Magistrate Judge

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